

“അധികൃത സംരക്ഷണ ഡിപ്പാർട്ട്മെന്റിന്റെ ഭരണത്തെ പറ്റിയും, സംഖ്യകൾ ചിലവടുന്നതിനെ പറ്റിയും മറ്റും സമഷ്ടിയായി അന്വേഷിച്ചു് ഒരു റിപ്പോർട്ട് വരുത്തുന്നതിന്നു് ഉദ്യോഗസ്ഥന്മാരും അൻഭേദാത്മസ്ഥന്മാരും അടങ്ങിയ ഒരു കമ്മിറ്റി നിശ്ചയിക്കേണ്ടതിനെ പറ്റി പറയുവാൻ” മന്-ാം റൂൾ ൪-ാം വകുപ്പുപ്രകാരം വിഷയവർത്തനം വിരോധിച്ചിട്ടുള്ളതു കൊണ്ടും ഈ പ്രമേയം ആ റൂളിനു വിപരീതമായാിട്ടു കാണുന്നതിനാലും ഇതു സ്വീകരിയ്ക്കുവാൻ തക്കതല്ലെന്നാണ് പറയേണ്ടിവന്നിരുന്നതു്.

Hence the motion was ruled out of order.

2. Agricultural Indebtedness.

പ്രസിഡൻറ്.—മുൻപറഞ്ഞ റൂൾ അനുസരിച്ചുതന്നെ ഒരു പ്രമേയംകൂടി വാദപ്രതിവാദം നടത്തുവാൻവേണ്ടി വേറെ ഒരു മെമ്പർ സമർപ്പിച്ചിട്ടുണ്ടു്. അതായതു് ബഹുമാനപ്പെട്ട ക്രാഷ് നന്തർ മെമ്പറുടെ അപേക്ഷയാണിതു്.

“Under Rule 18 I request leave for an adjournment to discuss a definite matter of urgent public importance, namely, the recent developments of Agricultural Indebtedness in the State.

ഇതും സ്വീകരിയ്ക്കുവാനായിട്ടുള്ള മാർഗ്ഗം കാണുന്നില്ല. ഒന്നാമതു് അർജൻറ് പബ്ലിക് ഇമ്പോർട്ടൻസ് (urgent public importance എന്നുള്ള ആകാളിഫ്രഷേജൻ അനുസരിച്ചിട്ടില്ല. പിന്നെവേറേയും പല കാരണങ്ങളുണ്ടു്. അവയെല്ലാം വിവരിച്ചു പറയണമെന്നു വിചാരിക്കുന്നില്ല. അഗ്രികൾച്ചറൽ ഇൻഡെബ്റ്റ്ഡെസ്സനസ് (agricultural indebtedness) നെ പറ്റി ധാരാളം വാദപ്രതിവാദം ഈ സഭയിൽ ഉണ്ടായിട്ടുള്ളതുകൊണ്ടു് ഇതും സെക്ഷൻ വിരോധമായാണുകാണുന്നതു്. അതുകൊണ്ടു് ഇതും അനുവദിക്കുവാൻ തരം കാണുന്നില്ല.

മാസ്റ്റർ കെ. എം. ഇബ്രാഹിം.—ഞാൻ എക്സ്പ്ലൈൻ ചെയ്ത മനസ്സിലാക്കിത്തരാം.

പ്രസിഡൻറ്.—അതിനുള്ള കാരണങ്ങൾ കാണുവാനില്ല.

Hence the motion was ruled out of order.

Point of order:—re: allotment of business on non-official days.

Mr. T. K. Nayar.—On a point of order, Sir. According to Standing Order 6 (1) the Diwan, at the commencement of a Session, has power to allot some days for the non-official business and accordingly he has allotted this Saturday, the 28th of Karkadagam, for non-official business. To-day, according to the supplementary Agenda supplied to us, after Questions and Answers, the discussions on the budget grants that have not been put to vote will continue and will have precedence over the non-official business. In my humble opinion it is against

Standing Order 6 (1). I request that a ruling may be given on the point.

Mr. A. Sankara Poduval.—Sir, I too wanted to raise the same point of order. If the President will permit me I have something more to say about the legality of the procedure.

President.—Yes, you may continue.

Mr. A. Sankara Poduval.—The procedure now proposed viz., that of taking up the budget grants that were not put to the vote of the House yesterday, is according to the Regulation, Rules and Standing Orders, erroneous.

Mr. C. J. Mathew.—Sir, I may be permitted to read out to the Council the order from the Diwan in connection with this procedure.

Mr. A. Sankara Poduval.—This is what I have to say. Rule 49 and Standing Order 6 relate to allotment of business. Hon'ble Members of this Council have been asked to attend this Budget Session and it has been notified to them that Government business, budget grants, were to end yesterday and that to-day, the 28th of Karkadagam is posted for non-official business. Now Rule 49 lays down that a maximum period of 7 days may be allotted by the Diwan, to move Government grants. "Not more than 7 days shall be allotted by the Diwan for the discussion of the demands of Government grants and that on the last day of the allotted days at 5 o'clock in the evening, the President shall forthwith put every question necessary to dispose of all the outstanding matters in connection with the demands for grants." That is to say, Rule 49 lays down the maximum number of days which the Diwan may allot for moving Government grants. In this instance, 7 days have been allotted. Then Standing Order 6 lays down that "The Diwan, after considering the state of business of the Council, shall, at the commencement of each Session, allot as many days as are in his opinion compatible with the public interests for the business of the non-official Members in the Council and may, from time to time"

Mr. Thomas Manjuran.—That order has been substantially altered. I do wish to bring to the notice of the House that there is such an alteration. I will read the altered Standing Order. " and may allot different days for the disposal of different classes of such business and may, from time to time during the meeting, alter such allotment, and on these days such business shall have precedence."

Mr. T. K. Nayar.—We will fight upon that.

Mr. A. Sankara Poduval.—"The Diwan, after considering the state of business of the Council, shall at the commencement of each meeting, allot as many days as are in his opinion compatible with the public interests for the business of the non-

official Members in the Council and may allot different days for the disposal of different classes of such business and may from time to time during the meeting alter such allotment, and on these days such business shall have precedence." Now my point is this. Standing Order 6 lays down the procedure with regard to the allotment of days for the discussion of non-official business. In regard to the other matter 7 days is the maximum that should be allotted. In any view, no change could be made by the Diwan against the provisions of Rule 49,—so that it is not possible for the Diwan to make any alteration under Standing Order 6 so that Government business may have precedence to-day. The only other question is this: since we got the Council adjourned yesterday, could not the same business be done to-day. That is provided for by Standing Order 8 which distinctly lays down that all business appointed for any day and not disposed of on that day shall stand over until the next day of the meeting *available for business of the class to which it belongs*.

Rama Varmha Tampuran.—Provided it was not altered in the interval.

Mr. A. Sankara Poduval.—I am not aware of any amendment to Standing Order No. 8. So that if to-day, business of the class be not available, Government grants could not be moved to-day. Now Rule 49 lays down that not more than 7 days should be allotted and the 7 days expired yesterday. So the fact that there had been an adjournment of the meeting of yesterday cannot help the Government because to-day is a day in which that class of business is not available. Standing Order 6 relates only to the allotment of days for non-official business and the amendment does not make any difference. This Standing Order relating to the allotment of time for non-official business, even as amended, cannot interfere with Rule 49 and Standing Order 8 cannot avail Government. Therefore it seems to me that neither under the existing Regulation nor under the Rules, even as amended, is authority given to any power to allow the Government grants of yesterday—being the last day—to be taken up for consideration to-day. It can only be done by a Proclamation. It is to avert that contingency that I moved the adjournment of the House till 3 p. m. We are reaping the fruits of the Government opposition to it yesterday.

Mr. Thomas Manjuran.—Sir, if the Government view was wrong, which it was not, it was for the party to bring that fact, yesterday to the notice of the President and take a ruling. The Government Member who raised the objection was not the party who was to decide. It was the President's function to decide. So it is idle to contend to-day that because an objection was raised by the Government Member the whole blame should

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go to the Government. One party, for reasons best known to themselves, deliberately chose to move the adjournment of the House. They may be right or they may be wrong. But to say that because that party chose to move a motion and adjourned House, somebody else is to blame is unfair.

Nor is this House powerless. I believe I shall be able to convince the Chair and the Hon'ble Members that the position taken up by the Member for Trichur has absolutely no force. Let me first read the order passed by the Diwan.

"The Secretary, Legislative Council, reports that in the midst of the question hour to-day the Sitting of the Council was adjourned by a vote of the Council under S. O. No. 26. To-day was the last day allotted for the discussion of the Budget grants and therefore due to the adjournment of the day's business it has not been possible to put all the grants to vote. Nor has it been possible to appropriate for the discussion of the budget grants all the entire seven days allowed by Rule No. 49 of the Legislative Council Rules.

2. Under the Standing Order 6 (1) of the Cochin Legislative Council the Diwan is therefore pleased to alter the allotment of the business sanctioned in Diwan's Proceedings read above and to order that the discussion on the budget grants that have not been put to vote shall continue to-morrow and shall have precedence over the other business originally allotted as per the Diwan's Proceedings, dated 24th July 1933. To-morrow the 12th August shall then be the last day allotted for the discussion of the demands for grants.

3. The Secretary to the Legislative Council is requested urgently to issue the necessary supplementary agenda for the business of the Council."

Now Sir, you will see from Rule 49 (1) that "Not more than 7 days shall be allotted by the Diwan for the discussion of the demands of the Government grants". Seven days were as a matter of fact allotted for the purpose. But the 7th day did not become available for the discussion of the Government grants on account of the adjournment of the House yesterday. On that ground the Diwan, who is the party empowered to pass orders under the Rules and the Standing Orders, has allotted to-day as the last day for the discussion of official business. Where is the want of jurisdiction?

Mr. K. Ayyappan.—He will have to amend the rules first.

Mr. Thomas Manjuran.—Not at all. Under Standing Order 6 (1) the Diwan can, during the course of a meeting alter from time to time the business allotted for the several days. The Diwan has done that and Rule 8 is qualified by Standing Order 6 (1). The business which now stands allotted for to-day was no doubt originally allotted for the previous day. But in view of the alteration made by the Diwan under Standing Order 6 (1) to-day's business has become converted to the kind of business allotted for yesterday.

Mr. A. Sankara Poduval.—He is not empowered to do it.

Mr. Thomas Manjuran.—I am submitting to the Chair. So, Sir, I submit that the Proceedings of the Diwan is perfectly in order and that he has got full jurisdiction to pass the orders that he has been pleased to issue. I submit that the President may be pleased to make a pronouncement on this point of order and allow the business of the House to go on.

Mr. A. Sankara Menon.—Sir, I quite agree with the view taken by the Hon'ble Law Member with regard to this question. No other reasonable interpretation can be put upon the Rule and two Standing Orders referred to than the one given by the Hon'ble Law Member. I will illustrate my position. Suppose for some reason the President and the Deputy President could not preside and the sitting could not go on yesterday and suppose there was no panel of Chairmen, what would be the result if the other interpretation is accepted? It is only necessary to consider this one aspect of the matter to see that the view taken by the Hon'ble Law Member can be only the reasonable view.

Mr. K. T. Mathew.—On a point of order, Sir. If a point of order is raised, is it permissible for the Member who raised the point of order or other Members also to explain the point of order?

President.—In the interests of the Council I think it necessary to give an opportunity to all of you.

Mr. A. Sankara Poduval.—It is generally done here. There is precedent.

മിസ്റ്റർ കെ. എം. ഇബ്രാഹിം.—ഇതിൽ വളരെ ക്ലിയറായിട്ടു കാണാം ഗവണ്മെൻറു പറഞ്ഞിട്ടുള്ളതു ശരിയാണെന്നു്. എഴുതിവസത്തൽ കൂടുതൽ ലിവാൻജി അഡികാരം കൊടുക്കുവാൻ പാടില്ല എന്നാണു പറയുന്നതു്. കസ്റ്റംസു കഴിയുന്നതനുസരിച്ചാണു് ഞാൻ ഇവിടെ ഒരു അഡ്ജേൺമെൻറുമോഷൻ അയച്ചിട്ടുള്ളതു്. ഇപ്പോൾ ആറു ലിവാസമേ അയച്ചിട്ടുള്ളു. ഇന്നുകൂടി ഡിമാൻഡ്സ് ഡിസ്കസ് ചെയ്യുന്നതൽ യാതൊരു ന്യായഭംഗവും യുക്തിഭംഗവും വരുവാനില്ലെന്നാണു് എന്റെ അഭിപ്രായം.

Mr. T. K. Nayar.—Sir, this Standing Order 6 (1), according to the marginal note is "allotment of time for non-official business and proceedings of business." The section runs as follows:—"The Diwan, after considering the state of business of the Council, shall, at the commencement of each meeting, allot as many days as are in his opinion compatible with the public interests for the business of the non-official members in the Council....." He shall allot at least some days for the non-

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official members. That is mandatory.... "and may, from time to time, during the session, after such allotment and on these days such business shall have precedence." 'Such allotment' means allotment of non-official business. He may alter the day for non-official business. Although the Diwan has fixed the 28th of Karkadagam as the non-official day, on any day before the 28th he may come and say that "I have fixed the 25th for non-official business". On that day, that is the 25th, although that day has been previously allotted for official business, our non-official business will have precedence. On all other days that are not non-official days, Government business shall have precedence.

Mr. M. Krishna Menon.—There is no word 'non-official' there.

Mr. T. K. Nayar.—I am coming to that. If this Council Manual is wrong I have nothing more to say. I am not addressing the non-official luminaries of the legal world. I am addressing the Chair. If this book which is published under the authority of the Cochin Government and supplied to the non-official members gratis is wrong, I am helpless!

Under Standing Order 6 (1) the Diwan can only alter non-official business. That is how I understand it. The non-official business that is fixed by the Diwan for Saturday may be altered to any other day. I have no grudge against it. But as this is the last sitting of the Session and as he cannot alter this non-official business to any other day during the Session and as, according to Standing Order 6 (1), on a non-official day non-official business must have precedence over official business, I pray that the non-official business may be taken up first. Again under Standing order 8, "All business appointed for any day and not disposed of on that day shall stand over until the next day of the session *available for business of the class to which it belongs*". There are two classes of business—official and non-official. If an official business is not finished in one day, that business shall be adjourned to another *official day* and not to a non-official "day, or until such other day in the meeting so available as the Member in-charge may desire". These words are not used without any meaning. Perhaps the official Member in charge may be otherwise engaged the next day and the President has power to adjourn that business to any other official day. It is left to the discretion of the President. Under Standing Order 6 (1) the Diwan can alter *such* allotment. What is this "such?" This "such" obviously implies the non-official business. That may be altered to any other day and on such day the non-official business shall have precedence. The section is very clear. The non-official business must have precedence. I pray the President to give a ruling to that effect and establish the rights of the non-officials.

Mr. P. Kumaran Ezhuthassan.—Sir, I wish to bring to your kind notice the fact that in issuing notice under the Rules to the Hon'ble Members of this House the Government has set apart this day, namely, Saturday the 28th, as a complete non-official day and a series of items of work for the day had also been supplied to us in the Agenda. Therefore I respectfully submit to the Chair that we have got the right to insist that a complete day should be placed at our disposal for discussion and any infringement of that right which is given to us, has to be objected to.

True, that in giving a ruling on the lines we suggest, if you are so inclined, you will be setting at naught the action of the Officiating Diwan. But that can never be the consideration. The right that has been given to us cannot be taken away. Therefore, we appeal to the Chair that a correct ruling on this subject viz., the infringement of the right of discussing the non-official business by the act of the Officiating Diwan, however great his power may be, may be given.

Dr. A. R. Menon.—I suppose the President is not bound by any order issued by the Diwan.

President.—No, no.

Dr. A. R. Menon.—Then I want another answer from the Government Advocate. Has there been a similar instance in this Legislative Council analogous to this?

Mr. Thomas Manjuran.—I don't think there was any such case. Formerly no day was set apart, during the Budget Session, for non-official business. This non-official day is not a statutory one. On account of the representations made by Hon'ble Members the Diwan thought that it would be fair to allot such a day. The Government originally had no idea of encroaching upon the non-official day at all and would have very willingly and readily conceded another day if Monday could possibly be given to them. But unfortunately there is the question of notice. We are trying to get the business of the House done and I hope it is not the intention of the Hon'ble Members to bring about a dead-lock. The peculiar and extraordinary situation created by the adjournment of the House on the last day set apart for the conduct of official business has to be met. The Diwan had to use his powers for the purpose. His action is not the result of his choice, but the result of sheer necessity. If the adjournment motion was carried out day before yesterday, we could very well have finished the official work yesterday and utilised this day for non-official business. Therefore, the question is whether the Diwan has power to do the acts, which he has now done. I have already submitted my arguments on that point. The matter is perfectly clear. He

has abundant power to do what he has done. No doubt, his action involves the infringement of some rights of the non-official Members. But such a course became inevitable when the non-official Members got the House adjourned yesterday. The non-official Members cannot escape this responsibility for this denouement (Denouement). The Government did not want to invoke the aid of sec. 16 cl. 3 of the Regulation if they could help.

Mr. T. K. Nayar.—No, no.

Mr. Thomas Manjuran.—Under section 16 (9) we can certify.

Mr. K. Ayyappan.—But that question does not arise now.

Mr. Thomas Manjuran.—I am only exhorting the Hon'ble Members to realise the spirit in which the Government has acted. The Diwan was called upon to do an unpleasant duty, and he did his duty. He would have failed in his duty if he had flinched. Again, I appeal to the Chair to give the decision and allow the business of the House to continue.

Mr. A. Sankara Poduval.—It is not our desire to create a dead-lock but we want to see that things are done legally.

Mr. C. J. Mathew.—May I just read a line from the Parliamentary Procedure? "Effect of adjournment of non-official business:— If the adjournment does not close the session the question should come up at the next meeting after the reading of the minutes and be treated as if there had been no adjournment at all". That is the procedure.

Mr. K. T. Mathew.—In answer to that I have to bring to the notice of the Chair that the rules governing the Parliament and the rules governing the Council are quite different. I would request the Chair to give special attention to the words, "for business of the class to which it belongs" occurring in S.O. 8. The Government Advocate has not yet thrown any light on it although he has explained S. O. 6. In spite of his attention being drawn to S. O. 8 he has not yet given his views on it. So if the Government Advocate is willing to enlighten this House with his views on S. O. 8, I would be very much obliged.

Mr. Thomas Manjuran.—S. O. 8 no doubt says that the business posted for one day can be posted to another day if it is of the same kind. Suppose the business posted for to-day is official business and the business posted for to-morrow is non-official business. As the law now stands, and in the absence of anything else, you cannot automatically continue the business posted for to-day, being official business, to to-morrow. So far we are agreed. But the Diwan has got the power under Standing Order 6 (1) of converting the nature of the business posted for to-morrow.

Mr. T. K. Nayar.—Then where is the day for non-official business?

Mr. Thomas Manjuran.—I conceded that it is a misfortune that the non-officials are not getting a full day for the discussion.

Dr. A. R. Menon.—Has the Diwan got power to deprive us of it?

Mr. Thomas Manjuran.—He can alter the business. He has got the power under the S. O. (1). It is under that power that he passed this order.

Mr. K. T. Mathew.—May I know whether the Diwan has got power to set at naught the Standing Order of this Council by his order?

Mr. Thomas Manjuran.—Certainly not. The Diwan has used his powers under S. O. 6 (1) and converted the nature of the business that was posted for to-day. You can view it in that way. Hon'ble Members will also remember that S. O. 8 deals only with the automatic continuance of business from day to-day.

Mr. T. K. Nayar.—There is not the word 'automatic' there.

Mr. Thomas Manjuran.—Let me explain what is meant by automatic. Business posted for a particular day must go on to the next day unless there is an impediment.

Mr. K. Ayyappan.—If days are available?

Mr. Thomas Manjuran.—When I used the word automatic you objected. So I explained it.

Mr. U. Kandar Menon.—The whole thing proceeds upon a mistake. The S. O. 6 (1) was altered. That was not read by the Hon'ble Member for Pazhayannur.

Mr. T. K. Nayar.—Sorry, I have not got that.

Mr. U. Kandar Menon.—"The Diwan after considering the state of business of the Council, shall at the commencement of each meeting allot as many days as are in his opinion compatible with the public interests for the business of the non-official members in the Council and may allot different days for the disposal of different classes of such business and may at any time during the meeting alter such allotment and on these days such business shall have precedence."

So, under the amended Standing Order the Diwan is competent to alter the allotment originally made and decide that the day allotted for the conduct of non-official business should be devoted for official business. This he can do even during the meeting. Whether it was proper to have done so is a different matter. He can do so according to the Standing Order. He has got the power to do it and he exercised that right for very good reasons in the present case. So, the difficulty on account of section 8 does not arise. Order 8 only says:—

"All business appointed for any day and not disposed of on that day shall stand over until the next day of the meeting available for business of the class to which it belongs."

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When the Diwan has already decided that to-day should be a day for official business, the conduct of that business does not contravene the provisions of section 8 of the Standing Order. Section 8 only lays down that the business to be conducted on any particular day should be of the nature of the business allotted for that day. What I therefore submit is that the whole thing is in order.

Mr. P. Kumaran Ezhuthassan.—To meet that point raised by the Hon'ble Leader of the House I want to say a word or two.

President.—To meet the fresh point raised by the Hon'ble Leader of the House?

Mr. P. Kumaran Ezhuthassan.—Yes. It has been pointed out that because of the amendment the non-official day could be converted by the Diwan into an official day. I believe I have understood him rightly and that is the point he was driving at. With regard to that I wish to point out to you, Sir, that the practice of the Council ever since its commencement inclusive of the year 1102, had been not to allot any day at all for non-official business, as will be seen from the Proceedings of the Council on the last day of the Budget Session, namely, the 10th day. You will be pleased to find that in the Proceedings of the first meeting of the second Legislative Council of the 19th Mithunam 1103, while adjourning the meeting, the Deputy President has announced as follows:—

"Now I beg to announce that the next session, the budget session of the Council, will begin on Monday, the 15th of Karkadagam 1103, and will continue for 11 days" as distinguished from 10 days) "The last day will be devoted for non-official business."

This has been received with great satisfaction by the non-official section of the House and Dr. A. G. Menon, the Leader of the Progressive Party, put a question:—

Entirely for non-official business?

And the Deputy President said:—

Yes, exclusively for non-official business."

Then it evoked the thanks of Dr. A. G. Menon.

Ever since that, we have been given that right and that right should never be infringed upon. The amendment of the Standing Order cannot be to the prejudice of a precedent that has been set up which has ripened into a rule. Anything that will upset the precedent that has been established by a course of conduct for the last 6 years cannot by the sweet will of the Diwan be upset by the amendment of the Standing Order to nullify the precedent of 6 years.

Mr. Joseph Pettah.—Just one word in support of the position taken up by the Government, because I understand that that position is the correct one. Here it says, "shall allot

as many days." Let it be official business or non-official business that allotment he has power to change. Suppose he has allotted 3 days, he can change it into one day, or if he has only allotted one day he can change it to half-a-day or even an hour, or even no day at all. In that light, I think, the Diwan is perfectly justified in changing the allotment and allotting for the non-official business not one full day as was originally allotted.

Mrs. Swaris.—Sir, necessity knows no law and obedience is better than sacrifice. So let us obey the orders of the Diwan and also sacrifice our non-official day and pass the budget to-day.

President.—The point of order raised, if I understood it correctly, is that the change in the agenda violates rule 49 and Standing Order Nos. 6 and 8. I believe I am right in gauging the situation.

Mr. A. Sankara Poduval.—Not fully. Even if it is legal, the non-official business must have precedence.

President.—Though the points raised are capable of very interesting discussions I do not think it advisable to do so as they are not, to quote the words of Standing Order 6, "compatible with the public interests". Therefore I do not enter into the reasons of my ruling just now; but I rule that the change in the agenda is perfectly within the powers of the Diwan.

Demands for Grants.

24—Public Health (cont).

Motion No. 38A (cont).

Dr. A. R. Menon.—Sir, I rise to second the motion and in doing so I wish to make one or two observations with regard to the School Inspectors. The object of that motion was to make a representation to the Government that the Medical Inspectors of schools may be converted into Assistant Health Officers. Now it does not involve much additional expenditure on the part of the Government and it is a reform in the right direction. If at all you are going to have a Public Health Department it is no use to have a Public Health Department under one man. He must have subordinates to help him so as to make it a useful organisation of the State. I think it is essential that there must be two people occupying a place between the Sanitary Inspectors and the Director of Public Health. Now the practice is that these two gentlemen are going about examining all the school children. It is very difficult for them to do that work along with this. Therefore the proper arrangement is to hand over the schools in rural areas to doctors who are already there, doctors in the rural dispensaries or even private practitioners. The advantage will be those people will always be there and they would have a keener interest in the school children of the locality than a person who is going about the